



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,994	05/01/2001	Richard E. Hunter	0095-194	3915

7590 12/23/2002

ATTN: Michael H. Jester
THE LAW OFFICES OF MICHAEL H. JESTER
750 B STREET, SUITE 2560
SYMPHONY TOWERS
SAN DIEGO, CA 92101

EXAMINER

HWU, DAVIS D

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,994

Applicant(s)

HUNTER ET AL.

Examiner

Davis Hwu

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Response to Amendment

1. Applicant's amendment and remarks of October 15, 2002 are acknowledged and entered as paper number 6 in the case file wrapper.
2. Applicant's amendment and remarks have been fully considered.
3. All of the appropriate 35 USC paragraphs can be found in the office action of September 11, 2002 and will not be repeated herein.

Claim Rejections - 35 USC § 103

4. Claims 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sesser in view of Brown et al.

The patent to Sesser discloses the instant invention except for the valve means as recited. The patent to Brown et al. teaches a flow control valve used in a pop-up sprinkler in which the valve diverts flow from one line to another when the flow rate exceeds a certain value in which the valve includes a float 28 that moves upwardly when the pressurized fluid entering the lower end of the riser is substantially entirely water and covers the inlet orifice. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Sesser in incorporating a valve for selectively re-directing the fluid around the turbine as taught by Brown et al. to selectively re-direct the fluid if the fluid is a mixture of water and air. Sesser and Brown et al. do not disclose a cylindrical float. It would have been an obvious matter of design choice to have made the float cylindrical, since such a modification would have involved a mere change in the shape of an object.

Allowable Subject Matter

5. Claims 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 1-15 are allowed.

Response to Remarks

7. Applicant's remarks regarding claims 16, 17, and 19 have been fully considered, however, they are not persuasive. The device of Brown et al. does not need to be a rotor-type sprinkler having a turbine because Brown et al. teaches closing off the a flow passage before the water gets to the distributor. Since the float type ball valve of Brown et al. is used to close off the flow passage to prevent water from entering the distributor, the valve would be compatible with the device of Sesser '022 or any other sprinkler. Since the stopper of Brown et al. only rises when abnormal flow conditions are detected, the valve is capable of selectively re-directing the fluid.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3752


extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7766 for regular communications and (703)308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

Davis Hwu
December 17, 2002


MICHAEL MAR 12/18/02
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700